

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7019**

**BILL NUMBER:** SB 206

**NOTE PREPARED:** Mar 19, 2005

**BILL AMENDED:** Mar 17, 2005

**SUBJECT:** Home Services.

**FIRST AUTHOR:** Sen. Dillon

**FIRST SPONSOR:** Rep. Lehe

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill establishes a program for the licensing and regulation of personal services agencies. It requires a personal services agency to comply with employee criminal history check requirements. It also makes operating or advertising an unlicensed personal services agency a Class A misdemeanor. The bill relocates the definition of "attendant care services".

The bill also requires a placement agency to provide the consumer and worker with certain information when a home care services worker is placed in the consumer's home. It allows the State Department of Labor to impose a civil penalty against a placement agency for failing to provide the notice.

The bill provides that home health agencies and personal services agencies are approved to provide home health or personal services under certain federal waivers. It provides that home health services includes services that are required to be ordered or performed by certain health care professionals.

The bill increases the home health agency license fee. It also provides that a home health agency that operates a personal services agency is not required to obtain a license to operate the personal services agency.

This bill also requires a home medical equipment services provider to be licensed by the Board of Pharmacy. It authorizes the board to conduct inspections, issue licenses, discipline providers for violations, and adopt rules to: (1) specify the equipment to be regulated; (2) set standards for the licensure of services providers; (3) govern the safety and quality of services that are provided; (4) recognize certain accredited individuals for purposes of issuing a temporary license; and (5) set reasonable fees for the application, issuance, and renewal of a license. The bill makes conforming changes.

**Effective Date:** July 1, 2005.

**Summary of Net State Impact:** (Revised) *Home Medical Equipment Services Provider Licensure:* The minimum fiscal impact of this bill on the Health Professions Bureau (HPB) is an increase in expenditures of \$134,410 in FY 2006 for initial start-up costs and \$111,390 annually thereafter but could increase depending on the number of providers licensed. License fees sufficient to offset the expense required to run the program, are estimated to be \$409 but could be higher if the number of providers is higher than estimated. Revenue that would be generated from a licensing fee would be deposited in the state General Fund.

*Personal Services Agency Licensure:* The total cost of the provision is estimated to be \$278,171 in FY 2006, assuming full operations for three-quarters of the year, and \$290,286 for FY 2007. Fee revenue is estimated to be \$62,500 annually, assuming 250 agencies apply for licensure. Increased expenditures and associated license fee revenue would be dependent upon the number of providers that would be required to be licensed.

**Explanation of State Expenditures:** *Home Medical Equipment Services Provider Licensure:* This bill establishes licensure of home medical equipment services providers. The fiscal impact of this bill on the Health Professions Bureau is dependent on the cost of additional board meetings, license issuance, and additional staff that are required to be employed to investigate complaints and conduct inspections of home medical equipment services providers.

*Licensing* - The seven-member Board of Pharmacy would be responsible for overseeing the licensing process, establishing fees and continuing education requirements, recognizing accreditation bodies, and governing the safety and quality of home medical equipment services. According to HPB, the Board would need to meet three additional times to fulfill the provisions of this bill. The estimated cost of travel and per diem for three additional meetings would be approximately \$3,500. HPB estimated the annual costs of producing and issuing a license, including postage, printing, telephone, and supplies, would be about \$5,100.

*Inspections* - To initiate the inspection process, HPB would require additional staff to conduct inspections. If one field inspector (PAT III) is needed to conduct inspections and another position (PAT V) is needed to coordinate the inspections, the additional expenditures for the above-listed positions would be \$96,990 in FY 2006 and \$96,970 in FY 2007. Additional field inspectors may be needed, depending on the number of entities who are subject to inspections. Each additional field inspector position costs \$50,630 in FY 2006 and \$50,700 in FY 2007. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of December 2003, HPB had 2 vacancies: one COMOT 3 and one PAT I position. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

According to HPB, field communications equipment would also be needed for conducting inspections. The estimated annual costs for one inspector, in 2002, included: cell and pager, \$960; portable computer, \$1,200; and mobile Internet connection, \$960. HPB estimated that providing the field inspector with a vehicle would be more cost effective than paying mileage. The agency estimated the initial cost for a vehicle would be a \$23,000 one-time cost, and the annual maintenance would be \$2,700. The total annual field work cost, not including staff, was estimated to be \$5,820 per inspector, plus the price of a vehicle in a year where a new vehicle must be acquired. The cost for subsistence and lodging are not included in this estimate because it is

unknown how often either would be required.

The total expenditures for the Board of Pharmacy meetings, providing the license, two additional staff, and inspector field work *initially* are estimated to be \$134,410 in FY 2006 and \$111,390 in FY 2007 and subsequent years. Staff cost could increase depending on the number of inspections needed.

(Revised) Personal Services Agency Licensure:

*Department of Health - Summary:* The total cost of the bill is estimated to be \$278,171 in FY 2006, assuming full operations for three-quarters of the year, and \$290,286 for FY 2007. Fee revenue is estimated to be \$62,500 annually, assuming 250 agencies apply for licensure. The Department of Health has revised the original estimated resources required to implement the provisions of this bill based on an assumption that the costs for providing a licensure and regulation program for personal services agencies should be less than those for home health agencies, since personal services agencies' scope of care does not include licensed professionals and the amended bill specifies that home health agencies will not be required to obtain a separate license to provide personal services as a portion of their business.

The number of personal services agencies that would require licensure has been estimated to be about 250 entities. The Department of Health estimates that they may need up to four additional surveyors and one secretary. It is assumed that these surveyors would be supervised by the existing supervisory staff of the Home Health Care Licensure unit. If a surveyor is hired at the PAT III level, each position would cost approximately \$54,933 in FY 2006, or a total of about \$219,732 in FY 2006 for four surveyors for a full year. If a secretary is hired at the COMOT III level, the support staff costs would be approximately \$34,647 in FY 2006 for a full year. These estimates include salary, fringe benefits, and health benefits. Total expenditures for all staff (surveyors, support staff, and \$11,316 for a part-time attorney) are estimated at \$265,695 for FY 2006 assuming full staffing for the year. Discussions with the regulatory services staff indicate that the rule promulgation process would be lengthy and hiring probably would not take place until the second quarter of the fiscal year, allowing time to train the staff. Under this assumption, the personal services cost in the first year would be \$199,271.

Other related expenditures would be data base revisions, computers, mileage, and reimbursements for other expenses incurred while traveling. Other operating expenses in the first year would include startup costs for software and data base revisions of \$42,000. The cost for 5 computers at \$2,500 per computer is \$12,500. As of January 2005, the mileage reimbursement rate was \$0.34 per mile. The actual cost of mileage and related travel expenditures will depend on the amount of traveling required. The Department reports that the average cost for current survey staff is \$6,100 annually. Expenditures for the personal services agency licensing program will come from state funds. There is no comparable federal certification which would allow for federal funds to be claimed.

This bill does not contain an appropriation to fund the personal services agency licensure program.

Budget information on the home health agency survey program was not immediately available. However, it will be included once the information is provided.

*Attorney General-* The State Department of Health may report to the Attorney General an unlicensed personal services agency. The Attorney General may then seek an injunction or prosecute violations. This provision of the bill could add to the Attorney General's administrative burden, which would depend on individual

circumstances.

*Department of Labor-* The bill requires the Department of Labor to develop a notice for consumers informing them that they may be considered to be an employer of a home care services worker and may be responsible for the payment of local, state, or federal employment taxes, or payment of Social Security and Medicare contributions as well as worker's compensation insurance and other requirements. The bill would allow the Department to investigate alleged violations of the failure to provide notice by a placement agency that places home care services workers in employment. The Department of Labor may incur additional expense if they choose to investigate complaints or audit compliance with this provision. The bill also would allow for the imposition of a civil penalty not to exceed \$1,000 for failure of a placement agency to notify a worker or a consumer at the times specified under the bill.

**Explanation of State Revenues:** *Home Medical Equipment Services Provider Licensing:* Presumably, fees will be set at a level designed to cover expenses. The amount of revenue that will be generated by this proposal will depend on the number of providers who seek licensure. The Association of Indiana Home Medical Equipment Services estimates there are approximately 300 providers who would be subject to licensure under this bill. If 300 providers pay a license fee in an amount to cover the expenses listed above, the cost per license would be \$409, or \$578 if an additional field inspector was needed.

(Revised) *Personal Services Agency Licensing: License Fee-* The bill requires the State Department of Health to charge a \$250 nonrefundable fee annually for a license to operate a personal services agency. License fee revenue will partially offset the costs of the licensing program. If there are 250 providers as estimated by the Department of Health, the license fees would generate \$62,500 of revenue. Fee revenue is distributed to the General Fund.

(Revised) *Home Health Agency Licensing: License Fee-* This bill would allow the maximum fee that the State Department of Health may charge for home health agency licensure to increase from \$200 to \$250 annually. The current home health agency licensing fee is \$100 annually. Any amount of increased fee revenue would depend upon administrative action by the Department of Health.

*Penalty Revenue-* This bill allows the Attorney General to seek an injunction in a local circuit or superior court or prosecute violations for operating or advertising the operation of an unlicensed personal services agency.

The bill also allows the Department of Health to impose a civil penalty of up to \$1,000 for violating provisions of the personal services agency licensing law.

*Penalty Provision-* This bill provides that if a person engages in the business of home medical equipment services and knowingly provides the services without a license issued according to this bill, or if a person operates or advertises the operation of personal services agency without a license, that person commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision* - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Health Professions Bureau, Board of Pharmacy, State Department of Health, Attorney General, Department of Labor, and FSSA/DDARS & OMPP.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Barbara McNutt, Health Professions Bureau; Terry Whitson, State Department of Health; and Jean MacDonald, Association of Indiana Home Medical Equipment Services, (317) 844-6630.

**Fiscal Analyst:** Kathy Norris, 317-234-1360; Valerie Ruda, 317-232-9867.